



THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
BOARD OF REVIEW

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## BOARD OF REVIEW DECISION

BR-124756 (Jan. 17, 2013) – A claimant who permanently relocates to Ireland does not satisfy the filing and registration requirements of G.L. c. 151A, § 25(a), or the provision for filing interstate claims under 430 C.M.R. 4.01(1), because there is no international agreement for the reciprocal payment of unemployment benefits between the United States and Ireland.

### Introduction and Procedural History of this Appeal

The claimant appeals a decision by a review examiner of the Department of Unemployment Assistance (DUA) to deny unemployment benefits. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

The claimant separated from his position with the employer on June 12, 2012. He filed a claim for unemployment benefits with the DUA, which was denied in a determination issued on August 17, 2012. The claimant appealed the determination to the DUA hearings department. Following a hearing on the merits attended only by the claimant, the review examiner modified the agency's initial determination, but still denied benefits in a decision rendered on October 15, 2012. We accepted the claimant's application for review.

Benefits were denied after the review examiner determined that the claimant was residing in Ireland while certifying for benefits under a claim filed in Massachusetts and, thus, was disqualified under G.L. c. 151A, § 25(a). Our decision is based upon our review of the entire record, including the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal.

The issue on appeal is whether a former Massachusetts wage earner living in Ireland may satisfy the registration and filing requirements under G.L. c. 151A, § 25(a).

Findings of Fact

The review examiner's findings of fact and credibility assessments are set forth below in their entirety:

1. The claimant worked part-time hours as a Receptionist at a private school until he separated from employment with a last day of work on 06/12/12.
2. The claimant in speaking with his former Employer Management was told that the employer would not protest his claim for unemployment benefits.
3. On 06/14/12 the claimant left the United States of America to travel to Ireland.
4. The claimant left the United States with the intention of making Ireland his permanent home.
5. At the time the claimant left for Ireland he had no job offer and no job interview set up prior to his departure.
6. The claimant hopes to find work in Ireland as a Social Worker counseling recovering alcoholics. The claimant also works in self-employment as a writer of plays.
7. The claimant was born in the United States. The claimant is a citizen of the United States.
8. The claimant's father's mother was born in Ireland. The claimant has applied for [dual] citizenship based on his family connection to Ireland.
9. In July 2012 the claimant obtained a residency permit from the Irish government. The claimant understands that such a permit allows him to work in Ireland.
10. While speaking with an unknown Irish government worker, the claimant was given the opinion that he could collect unemployment benefits from the United States while permanently residing in Ireland.
11. On 07/26/12 the claimant filed a claim for unemployment benefits in Massachusetts. The claimant filed the claim via telephone from his new home in Ireland.
12. On 08/17/12 the claimant was mailed a "Notice to Claimant of Disqualification". This was mailed to his address of record in [City], Massachusetts denying [benefits] under Section 24 (b) of the Law for failing to respond to a request to establish that he was able, available, and actively seeking work. The claimant requested a hearing on the disqualification when he learned of its existence from former roommates. The claimant notified DUA that he was permanently residing in Ireland.

13. Massachusetts does not have a reciprocal agreement with any foreign country, other than Canada, regarding unemployment benefits. An absence for longer than one bi-weekly signing creates a filing and registration issue.

#### Ruling of the Board

The Board adopts the review examiner's findings of fact with the exception of the portion of Finding of Fact #13, which provides that Massachusetts has a reciprocal agreement with Canada. In so doing, we deem the remainder of the findings to be supported by substantial and credible evidence. However, we reach our own conclusions of law, as are discussed below.

G.L. c. 151A, § 25(a), provides, in relevant part, as follows:

No waiting period shall be allowed and no benefits shall be paid to an individual under this chapter for—(a) Any week in which he fails without good cause to comply with the registration and filing requirements of the commissioner. . . .

In his appeal, the claimant challenges the review examiner's finding that Massachusetts has a reciprocal agreement with Canada. He is correct. An agreement providing for the reciprocal payment of unemployment benefits has been executed between the Government of Canada and the Government of the United States of America<sup>1</sup>, not the Commonwealth of Massachusetts.

Federal law prohibits states from denying benefits solely because a claimant resides in "a contiguous country with which the United States has an agreement with respect to unemployment compensation" at the time he files a claim. 26 U.S.C. § 3304(a)(9)(A). It does not prohibit states from denying benefits to an individual when the claimant resides in a country with which the United States does not have such an agreement. Since the review examiner found that the claimant now resides in Ireland and there is no international agreement for the reciprocal payment of unemployment benefits between the United States and Ireland, Massachusetts may legally deny benefits to the claimant under federal law.

We next consider whether there is anything under Massachusetts state law that would require the DUA to honor the claim. In order to be eligible for benefits, G.L. c. 151A, § 25(a) requires a claimant to comply with the registration and filing requirements of the commissioner. These requirements are set forth under the DUA regulations. Specifically, 430 C.M.R. 4.01(1), provides, in relevant part, as follows:

To file a claim an unemployed individual shall appear in person and register for work at the public employment office that is nearest to his home or nearest to the place of business at which he was last employed, or in such other manner as the Commissioner shall prescribe; except that an individual who has wage credits in Massachusetts but is not residing in Massachusetts, may register and file claims as provided for in 430 CMR 4.05, Interstate Claims.

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<sup>1</sup> Agreement Between the Government of Canada and the Government of the United States of America, Effective 1942, Amended 1951, available on the U.S. Department of Labor website at [http://www.workforcesecurity.doleta.gov/unemploy/pdf/agree\\_us\\_and\\_canada.pdf](http://www.workforcesecurity.doleta.gov/unemploy/pdf/agree_us_and_canada.pdf)

430 CMR 4.05 provides the rules for filing interstate claims. Such claims must be filed pursuant to the Interstate Benefit Payment Plan (IBPP), wherein states have agreed to adopt rules and practices that facilitate cooperation and the sharing of the burden of administering these interstate claims. For example, the state where the claimant resides is responsible for investigating and reporting to the paying state whether the claimant remains available for work in the local labor market. *See* 430 CMR 4.05 (5)(a). These regulations are expressly extended to claims taken in or for Canada. 430 CMR 4.05(7). Nothing in the regulations provides for claims filed by a claimant residing in Ireland.

DUA does try to accommodate “transient claimants” who are temporarily out of the country to look for work and who have a reasonable prospect of finding work in the area that they travel to. *See* DUA Service Representatives Handbook § 1032(F), with which we agree. However, the claimant is not temporarily out of the country — he left Massachusetts for Ireland with the intent of making Ireland his permanent home.

We, therefore, conclude as a matter of law that neither federal nor state law provides for the payment of benefits to the claimant upon his permanent relocation to Ireland. The claimant is disqualified under G.L. c. 151A, § 25(a).

The review examiner’s decision is affirmed. The claimant is denied benefits for the week ending July 28, 2012 and for subsequent weeks, until such time as he is otherwise eligible.

**BOSTON, MASSACHUSETTS**  
**DATE OF MAILING - January 17, 2013**



John A. King, Esq.  
Chairman



Sandor J. Zapolin  
Member

Member Stephen M. Linsky, Esq. did not participate in this decision.

**ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS DISTRICT COURT**  
**(See Section 42, Chapter 151A, General Laws Enclosed)**

**LAST DAY TO FILE AN APPEAL IN COURT- February 19, 2013**

Please be advised that fees for services rendered by an attorney or agent to a claimant in connection with an appeal to the Board of Review are not payable unless submitted to the Board of Review for approval under G.L. c. 151A, § 37.